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November 3, 2010

EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Sandwich Isles Communications, Inc., Petition for
Declaratory Ruling, WC Docket No. 09-133

Dear Ms. Dortch:

Sandwich Isles Communications, Inc. ("SIC") recently filed a petition for reconsideration in the above-captioned docket, requesting confidentiality of the entire petition, primarily because of a document created by the National Exchange Carrier Association ("NECA").

NECA appreciates SIC's protection of NECA's information; however, in the interest of transparency and facilitating public comment in this proceeding, NECA hereby waives confidentiality of the attached document.

Although this document has been made available to all of NECA members and consultants since at least March 2004, it is normally not made public by NECA. Both SIC and its consultant had access to the document and, therefore, cannot present this in the context of the petition for declaratory ruling filed by SIC.¹

Notwithstanding, the document is irrelevant because it does not mention, nor does it contradict, the "used and useful" doctrine administered by the Federal Communications Commission as addressed in this matter. In this regard, NECA strongly takes exception to SIC's "lack of candor" allegation, which NECA asserts is egregiously false.

¹ Previously available evidence cannot form the basis of a petition for reconsideration. 47 C.F.R. § 1.106(l).

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Please let me know if you have any questions.

Pursuant to 47 C.F.R. § 1.1206, please include this ex parte filing in the above-referenced docket.

Sincerely,

/s/ Gregory J. Vogt

Gregory J. Vogt
Counsel for National Exchange Carrier Association, Inc.

Enclosure

cc: Pamela Arluk

SPARE FIBER C&WF INVESTMENT

Cost Reporting Guidelines

Issue:

This issue is primarily focused on addressing the provision in the FCC rules to assign facilities to categories that are spare fiber cable and wire facilities (C&WF) plant.¹ Specifically, what is the proper cost categorization treatment of spare fiber C&WF investment, and can spare or “reserved” fiber C&WF investment be categorized based on the intended use of the plant?

Background:

Previously, networks were designed using copper facilities, and the amount of spare capacity engineered into the networks was relatively minor. As the networks and technologies have evolved, the amount of fiber cables being deployed has increased. In addition to carrying more traffic at higher capacities than copper, fiber facilities also tend to have larger amounts of spare capacity.

Questions have arisen concerning the proper cost categorization treatment of spare fiber C&WF investment. For example if a company has a 24 fiber route, and 8 of the fibers are used for interexchange facilities and the other 16 are unused (*i.e.*, “spares”), how would they be categorized?

In addition, there have been questions concerning the proper categorization treatment of “reserved” fiber facilities. Specifically, can reserved facilities, which are defined by FCC’s rules as “kept or set apart for a specific use,”² be categorized based on its intended use?

Analysis:

For the most part, spare fiber plant should continue to be assigned to the same cost pools as related “in-use” equipment. The FCC, in its 1997 *Separations NPRM*, noted, “separations rules generally require carriers to apportion the cost of such facilities among categories on the basis of working network facilities.”³ Thus, if an ILEC assigns 60 percent of the costs of the working facilities in a trunk to the narrowband loop category, 60 percent of the spare facilities in that trunk also is assigned to narrowband loop.”⁴

Recognizing the substantial amount of spare fiber in the network, the FCC sought comment on its proposal to allocate spare fiber investment on “intended use” of the facilities rather than the proportion of working facilities. This concept of allocating spare on the basis of *intended use* was unilaterally objected to by the ILECs in favor of the “in use” method.⁵ To date, the FCC has not taken any further action on its proposal.

¹ For purposes of this paper, “spare” can be defined as unused plant that is placed into operation when other, in-use plant becomes inoperative, or when additional capacity is needed.

² 47 C.F.R. § 36 Appendix-Glossary.

³ See, e.g., 47 C.F.R. § 36.153(a)(1)(i)(B).

⁴ Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, *Notice of Proposed Rulemaking*, 12 FCC Rcd 22120 (1997)(*Separations NPRM*) at ¶ 70.

⁵ See, e.g., SBC Comments (“Rather than speculate about the potential uses of spare facilities, the Commission should simply continue the more reliable and prudent practice of apportioning spare facility costs on the basis of working facility costs. ... introducing a forecasting component into the separations process would be unwise.”); USTA Reply (“Spare capacity that is merely intended to meet future demand and/or that is justifiable on cost-reduction grounds should continue to be apportioned on the basis of working facility costs.”); SBC Reply (“Considerations voiced by several commenters support preserving the current “working facilities” approach to assigning spare facility costs, and rejecting any approach based on the “expected use” of such facilities. These considerations demonstrate that the

SPARE FIBER C&WF INVESTMENT

Cost Reporting Guidelines

As a result, the rules and industry practice generally would categorize the spare portion of any facility, including fiber, in the same manner as the in-use portion of the same section of cable. Using “in-use” facilities as a guideline, the 16 spares in the 24 fiber route from the example described in the Background section above would be allocated in the same proportion as the 8 “in-use” fibers.

Further, section 36.153(a) of the FCC’s C&WF categorization rules states “where an entire cable or aerial wire is assignable to one category, its cost and quantity are, where practicable, directly assigned.” This same section of the rules (§ 36.153(a)(1)(i)(A) and (B)) states that the categorization is to be made “from an analysis of cable engineering and assignment records.” These rules apply equally to fiber facilities.

For example, if the spare fiber investment is used wholly in facilities to connect digital loop carriers (DLCs) and subscriber locations, and does not include extended area service (EAS), Host Remote or Special Access circuits, the C&WF investment associated with the spare fiber facility would be directly assigned to Exchange Line C&WF-Category 1. However, if the facilities include circuits that would be applicable to other categories of plant, the investment would not be directly assigned to categories.

Section 36.153 of the FCC’s rules also acknowledges that certain C&WF investment that is “reserved” can be categorized based on an analysis of company records.⁶ To the extent that supportable documentation consistent with the FCC’s rules (*e.g.*, cable engineering and assignment records) identifying the facilities “kept or set apart for a *specific* use” is provided, companies have the ability to separately assign the cost of reserved cable to the various C&WF categories within the boundaries of the FCC’s rules. NECA will require companies to provide support to quantify the investment subject to being categorized based on the “reserved” use, and sufficient documentation to delineate the “specific use” of the reserved plant.

Conclusion:

Based on interpretations of the rules and industry practice, the spare portion of any facility, including fiber, is categorized in the same manner as the in-use portion of the same section of cable. If the spare facility is part of an existing “in use” cable facility, the spare capacity/facilities would get categorized in the same proportion of “in use” categorization (or directly assigned if the entire facility is assignable to one category). To the extent that the facilities have been separately identified and reserved for a specific use, and categorized based on this intended use, supportable documentation will be required to quantify the reserve portion of the C&WF investment and to describe the intended use.

concrete benefits of the former approach far exceed the speculative, uneconomical and administratively complex characteristics of the latter.”); GVNW Comments (“the existing Part 36 and 64 procedures are sufficient to address issues surrounding the allocation of spare facilities”).

⁶ 47 C.F.R. § 36.153(a)(1)(i)(A) (“From an analysis of cable engineering and assignment records, determine in terms of equivalent gauge the number of pairs in use *or reserved* for each category.”) (emphasis added).